

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO
(1) AMEND ARTICLE IV OF TITLE 15 OF THE CODE OF THE CITY OF
FAYETTEVILLE TO UPDATE THE AUTHORIZATION SECTION (2) ADD
LICENSURE AND REPORTING REQUIREMENTS FOR CURRENCY CONVERTERS
(3) ADD PROHIBITIONS FOR PAWN SHOPS AND CURRENCY CONVERTERS, AND
(4) MAKE TECHNICAL CORRECTIONS TO THE EXISTING ORDINANCE**

BE IT ORDAINED BY, by the Council of the City of Fayetteville, North Carolina, that:

Section 1. Section 15-121, authority, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 15-121. Authority.

This article is enacted pursuant to the provisions of N.C. Gen. Stat. § 66-397, and for these purposes, the provisions of N.C. Gen. Stat. § 66-386 *et seq.* are incorporated by reference. Where there is an inconsistency between this article and N.C. Gen. Stat. § 66-386 *et seq.*, the provisions of N.C. Gen. Stat. § 66-386 *et seq.* shall prevail.

Section 2. Section 15-122, definitions, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 15-122. Definitions.

- a. As used in this article, the following terms shall be defined as follows:
 1. **Pawn** and **Pawn Transaction** mean a written bailment of personal property as security for debt, redeemable on certain terms within 180 days, unless renewed, and with an implied power of sale on default.
 2. **Pawnbroker** means a person engaged in the business of lending money on the security of pledged goods and who may also purchase merchandise for resale from dealers and traders.
 3. **Pawnshop** means the location at which or in which a pawnbroker regularly conducts business.
 4. **Pledged Goods** means tangible personal property which is deposited with or otherwise delivered into the possession of a pawnbroker in the course of his business in connection with a pawn transaction.

5. **Purchase** means any item purchased from an individual for the purpose of resale whereby the seller no longer has a vested interest in the item.
6. **Currency Converter** means person engaged in the business of purchasing goods from the public for cash at a permanently located retail store who holds himself or herself out to the public by signs, advertising, or other methods as engaging in that business.
7. **Person** means any individual, corporation, joint venture, association, or any other legal entity, however organized.

Section 3. Section 15-123, licensing of pawnbrokers, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 15-123. Licensing of Pawnbrokers and Currency Converters

- a. No person, firm, or corporation shall establish or operate a pawnbroker or currency converter business without first having applied for and been granted the license provided by this section.
- b. Every application for a pawnbroker's or currency converter's license shall be upon a form approved by the City Manager and shall be filed with the collection division of the finance department. Each application shall contain the following information:
 1. The name and address of the person, and in case of a firm or partnership, the names and addresses of the persons composing such firm or of the officers of a corporation.
 2. The name of the business and the street address and mailing address where the business is to be operated.
 3. A statement indicating the amount of net assets or capital proposed to be used by the petitioner in operation of the business. This statement shall be accompanied by an unaudited statement from an accountant verifying the information contained in the statement.
 4. An affidavit by the petitioner that he has not been convicted of a felony.
 5. A certificate (at the applicant's expense) from the chief of police, sheriff of the county, or the state bureau of investigation certifying that the petitioner has not been convicted of a felony.
- c. The collection division of the finance department shall transmit a copy of the application to the police department for an investigative report, to the inspections department for a determination as to compliance with zoning and development regulations, and to the fire department to determine compliance with laws relating to fire protection. These departments shall report back to the collection division of the finance department within a reasonable period of time not to exceed 30 days.
- d. The finance director, or his designee, shall approve an application if it is determined that:
 1. The application contains no misstatement of fact.
 2. The applicant conforms to all requirements of applicable zoning, building, and fire prevention codes.
 3. The applicant shall not have been convicted of a felony within the ten-year period preceding the filing of the application.

- e. If an application is denied, the applicant is entitled to appeal that denial to the City Manager as set forth in section 15-125

Section 4. Section 15-124, issuance of license, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 15-124. Issuance of License.

Upon approval of the application by the finance director, or his designee, and upon receipt of a license fee as established by city council and set forth on the schedule approved pursuant to section 15-62, the collection division of the finance department shall issue a pawnbroker's or currency converter's license to the applicant. This license must be renewed annually.

Section 5. Section 15-125, revocation or denial of pawnbroker's license; hearing rights, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 15-125. Revocation or Denial of Pawnbroker's or Currency Converter's License; Hearing Rights.

- a. A license issued pursuant to this article may be revoked by the Chief of Police for substantial abuses of this Article or N.C. Gen. Stat. § 66-386 *et seq.* Before the Chief of Police revokes a license pursuant to this chapter, and before the finance director denies an application for a license pursuant to this article, a written notice shall be sent to the licensee or applicant affected, by certified mail, return receipt requested, to the address listed on the application. The notice shall advise the affected party of a right to appear before the City Manager, with or without legal counsel, at a stated time and place at least ten days following the date of the notice for the purpose of presenting any evidence relevant to such revocation or application and for the purpose of cross examining any person providing evidence against the respondent. The decision of the City Manager is final, unless appealed in writing to the City Council within 10 working days.
- b. Unless good cause is shown, the hearing before the City Manager shall be held within ten working days of the receipt of the written notice of appeal. The licensee whose license is the subject of the revocation hearing shall be permitted to continue to operate during the pendency of the appeal.
- c. Unless good cause is shown, the hearing before the City Council shall be held at the first regularly scheduled meeting of the City Council more than 14 business days after notice of appeal is given. The licensee whose license is the subject of the revocation hearing shall not be permitted to continue to operate during the pendency of the appeal.

Section 6. Section 15-126, recordkeeping requirements for pawnbrokers, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 15-126. Recordkeeping Requirements for Pawnbrokers

- a. Every pawnbroker shall keep consecutively numbered records of each pawn transaction or purchase. The records shall correspond in all essential particulars to a detachable pawn ticket or copy thereof attached to the record.
- b. The pawnbroker shall at the time of making the pawn or purchase transaction enter upon the pawn ticket a record of the following information which shall be typed or written in ink and in the English language:
 1. A clear and accurate description of the property, including model and serial number if indicated on the property.
 2. The name, residence address, phone number, and date of birth of the pledgor.
 3. The date of the transaction.
 4. The type of identification and identification number accepted from pledgor.
 5. Physical description of the pledgor.
 6. The amount of money advanced.
 7. The date and the amount due.
 8. All monthly pawn charges, including interest, annual percentage rate on interest, and total recovery fee.
 9. Agreed upon stated value between the pledgor and the pawnbroker in case of loss or destruction of pledged item. Unless otherwise noted, the stated value is the same as the loan value.
- c. The following shall be printed on all pawn tickets:
 1. The statement that "ANY PERSONAL PROPERTY PLEDGED TO A PAWNBROKER WITHIN THIS STATE IS SUBJECT TO SALE OR DISPOSAL WHEN THERE HAS BEEN NO PAYMENT MADE ON THE ACCOUNT FOR A PERIOD OF 60 DAYS PAST MATURITY DATE OF THE ORIGINAL CONTRACT. NO FURTHER NOTICE IS NECESSARY."
 2. The statement that "THE PLEDGOR OF THIS ITEM ATTESTS THAT IT IS NOT STOLEN, HAS NO LIENS OR ENCUMBRANCES, AND IS PLEDGOR'S TO SELL OR TO PAWN."
 3. The statement that "THE ITEM PAWNED IS REDEEMABLE ONLY BY THE BEARER OF THIS TICKET OR BY IDENTIFICATION OF THE PERSON MAKING THE PAWN."
 4. Two blank lines for the pledgor's printed name and signature.
- d. The pledgor shall print and sign their name on the pawn ticket and shall receive an exact copy of the pawn ticket, which shall contain a line whereon the employee or pawnbroker shall print their name and a line where the employee or pawnbroker shall sign or place their initials. These records shall be available for inspection immediately after they are created each regular workday by the police department. These records shall be a correct copy of the entries made of

the purchase transaction, shall be carefully preserved without alteration, and shall be available during regular business hours.

1. Inspection as defined in this Section shall include inspection of both the written or electronic record described in subsection (d) as well as inspection of the item described in the pawn ticket itself, unless the item has already been sold.
- e. Except as otherwise provided in this part, any person presenting a pawn ticket for redemption is presumed to be entitled to redeem the property described by the ticket.

Section 7. Section 15-127, recordkeeping requirements for pawnbrokers, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 15-127. Electronic Recordkeeping Requirements for Pawnbrokers

- a. Each and every owner or operator of a pawnshop or pawnbroker doing business in the city shall, within one year of the adoption of this section, maintain an electronic inventory tracking system which is capable of delivery and transmission of all information required by this Article or the North Carolina General Statutes via computer to the entity designated by the Chief of Police.
- b. The owner or operator of a pawnshop or pawnbroker will be required to upload the information to the entity designated by the Chief of Police within one business day of receipt of the goods purchased and/or pawned.
- c. The failure on the part of any owner or operator of a pawnshop or pawnbroker to comply with the provisions of this section shall be deemed a Class 3 misdemeanor and will result in the revocation of the owner or operator or pawnbroker's license. Each day of noncompliance with this section shall be deemed a separate and distinct offense.

Section 8. Section 15-128, recordkeeping requirements for currency converters, is ordained and enacted by adding the following:

Sec. 15-128. Recordkeeping Requirements for Currency Converters.

(a) Default Recordkeeping Requirements:

- a. Every currency converter shall keep consecutively numbered records of each purchase. The currency converter shall, at the time of making the purchase, enter upon each record all of the following information, which shall be typed or written in ink and in the English language:
 - (1) A clear and accurate description of the property purchased by the currency converter from the seller, including model and serial number if indicated on the property.

- (2) The name, residence address, phone number, and date of birth of the seller.
- (3) The date of the purchase.
- (4) The type of identification and the identification number accepted from the seller.
- (5) A description of the seller, including approximate height, weight, sex, and race.
- (6) The purchase price.
- (7) The statement that "THE SELLER OF THIS ITEM ATTESTS THAT IT IS NOT STOLEN, HAS NO LIENS OR ENCUMBRANCES, AND IS THE SELLER'S TO SELL."

- b. The seller shall sign the record and shall receive an exact copy of the record, which shall be signed or initialed by the currency converter or any employee of the currency converter. These records shall be available for inspection immediately after they are created each regular workday by the police department. These records shall be a correct copy of the entries made of the purchase transaction, shall be carefully preserved without alteration, and shall be available during regular business hours.

1. Inspection as defined in this Section shall include inspection of both the written or electronic record described in subsection (b) as well as inspection of the item described in the purchase transaction record itself, unless the item has already been sold.

- c. This section does not apply to purchases directly from a manufacturer or wholesaler for a currency converter's inventory.

(b) Alternative Recordkeeping Requirements:

- a. Every currency converter has the option to create and maintain records of purchases using the Leads Online service, supplemented by digital photography as opposed to manual data entry.
- b. Under this alternative method, every currency converter shall, at the time of making the purchase, perform the following actions:
 - (1) Take a digital photograph of the seller in such conditions as to be able to clearly recognize the seller and any distinguishing features of the seller;
 - (2) Take a digital photograph of the identification presented by the seller. The photograph must be of such clarity as to enable the viewer to clearly read all information presented on the identification including but not limited to:
 - a. The seller's name
 - b. The seller's address,
 - c. The seller's date of birth,
 - d. The identification number.
 - (3) Take at least one digital photograph of the item or items being sold. The photograph(s) should be of sufficient quality that the viewer can identify the item or items purchased by the currency converter. Every item

purchased does not have to be included in each photograph taken, so long as when viewed in totality, the photographs clearly identify the items purchased. By way of example this would include:

- a. Photographing the spines of a stack of books, where the titles are visible;
 - b. Photographing the spines of a stack of digital video disc (DVD) boxes, where the titles are visible;
 - c. Photographing an array of the items such that the items can be recognized; or
 - d. Any other method which allows the viewer to identify the items photographed.
- (4) Take a digital photograph of the unique serial number of any item being purchased that has a unique serial number,
 - (5) Upload all photographs taken pursuant to this subsection to Leads Online.
 - (6) Manually enter the name of the seller and the serial number(s) of the items purchased into Leads Online.
 - (7) Obtain a signed statement from the sellers which states "THE SELLER OF THIS ITEM ATTESTS THAT IT IS NOT STOLEN, HAS NO LIENS OR ENCUMBRANCES, AND IS THE SELLER'S TO SELL."
- c. Any currency converter that creates and uploads to Leads Online the documentation required in this subsection (Sec. 15-128(b)) shall be deemed to have complied with the requirements of this section, Section 15-129, and N.C. Gen. Stat. § 66-392.
- (c) This section does not apply to transactions involving the purchase of mass market paperback books.

Section 9. Section 15-129, recordkeeping requirements for currency converters, is ordained and enacted by adding the following:

Sec. 15-129. Electronic Record Keeping Requirements for Currency Converters.

- (a) Each and every owner or operator of a currency converter doing business in the city shall, within one year of the adoption of this section, maintain an electronic inventory tracking system which is capable of delivery and transmission of all information required by this Article or the North Carolina General Statutes via computer to the entity designated by the Chief of Police.
- (b) The owner or operator of a currency converter will be required to upload the information to the entity designated by the Chief of Police within one business day of receipt of the goods purchased.
- (c) The failure on the part of any owner or operator of a currency converter to comply with the provisions of this section shall be deemed a Class 3 misdemeanor and will result in the revocation of the owner or operator or currency converter's license. Each day of noncompliance with this section shall be deemed a separate and distinct offense.

Section 10. Section 15-130, prohibitions, is ordained and enacted by adding the

following:

Sec. 15-130. Prohibitions.

(a) A pawnbroker shall not:

- (1) Accept a pledge from a person under the age of 18 years.
- (2) Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction.
- (3) Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this Part.
- (4) Fail to exercise reasonable care to protect pledged goods from loss or damage.
- (5) Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event such pledged goods are lost or damaged while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with merchandise of like kind and equivalent value. In the event the pledgor and pawnbroker cannot agree as to replacement, the pawnbroker shall reimburse the pledgor in the amount of the value agreed upon pursuant to G.S. 66-391(b).
- (6) Take any article in pawn, pledge, or as security from any person, which is known to such pawnbroker to be stolen, unless there is a written agreement with local or State law enforcement.
- (7) Sell, exchange, barter, or remove from the pawnshop any goods pledged, pawned, or purchased before the earlier of seven days after the date the pawn ticket record is electronically reported in accordance with G.S. 66-391(d) and section 15-127 of this article or 30 days after the transaction, except in case of redemption by pledgor or items purchased for resale from wholesalers.
- (8) Operate more than one pawnshop under one license, and such shop must be at a permanent place of business.
- (9) Take as pledged goods any manufactured mobile home, recreational vehicle, or motor vehicle other than a motorcycle.

(b) A currency converter shall not:

- (1) Purchase from any person property which is known to the currency converter to be stolen, unless there is a written agreement with local or State law enforcement.

Section 11. Section 15-131, penalties, is ordained and enacted by adding the following:

Sec. 15-131. Penalties.


A violation of any part of this Article by a pawnbroker or an owner, operator, or employee of a pawnshop or currency converter shall, unless the same conduct is either prohibited by or subject to a greater punishment under a provision of the North Carolina General Statutes, constitute a Class 3 misdemeanor and, upon conviction, be punished by a fine of no less than and no more than \$500.00.

Section 3. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or of Ordinances, City of Fayetteville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

Adopted this the 27th day of June, 2016.

CITY OF FAYETTEVILLE




NAT ROBERTSON, Mayor

ATTEST:


PAMELA J. MEGILL, City Clerk